

In re BORGEN  
09/916,256

REMARKS

The Examiner is thanked for the First Action dated December 12, 2002. The above amendment and remarks to follow are intended to be fully responsive to the issues presented in that Action.

✓ The drawings were objected to for failing to include the reference numeral "32"<sup>22, 23</sup> mentioned at page 7 of the specification. Applicant has amended the specification at page 7 to correct a typographic error regarding reference numeral "32". No new matter has been entered.

Claims 6, <sup>Now elected</sup>9, 11 and 12 were objected to because of several minor informalities. Applicant has reviewed and amended these claims to correct these informalities. No new matter has been entered.

Claims 1-8 and 10-18 were rejected under 35 U.S.C. §112, second paragraph, for indefinite claim language. Applicant has reviewed and amended the claims for adherence to the requirements of §112. No new matter has been entered.

Claims 1-8 and 10-18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Balmforth (USP 4,914,979) in view of Hunt (USP 5,996,720). This rejection is respectfully traversed in view of the following comments.

No prior art teaches an axle disconnect assembly for a tandem vehicle whereby an axle is disconnected from its associated differential. The examiner incorrectly asserts that Balmforth '979 teaches a "second clutch means as shown in figure 7 which engages and disengages the axle shafts 111, 112 of a third drive axle from a differential assembly". There is no mechanism in Balmforth '979 whereby the axle shafts 111, 112 can be disconnected from the differential 110.


In re BORGEN  
09/916,256

There is no motivation to modify the tandem axle arrangement of Balmforth '979 to include the four-wheel-drive arrangement of Hunt '720 because these fields of endeavor are completely different. A four-wheel drive vehicle often is run in two-wheel-drive mode so that disconnection of the non-drive axle is more frequent. In a tandem axle arrangement, the back-driving problem occurs with less frequency. Therefore, one of skill in the art would not be motivated to modify Balmforth '979 based on Hunt '720 with resorting to hindsight reconstruction based on the teaching of this patent application. Thus, the obviousness rejection set forth by the Examiner is improper and should be withdrawn.

Regarding the structure of the present invention, the prior art fails to teach or render obvious any arrangement whereby the axle shafts (e.g., axle shaft 24, 25) are axially slidable with respect to their associated differential assembly. Hunt '720 teaches a slidable clutch collar but not slidable axle shafts (see pending claims 5-9, 11-18 and new claim 22).

It is respectfully submitted that this application is in condition for allowance and notice to that effect is earnestly solicited. Should the Examiners believe additional discussion would advance the prosecution of the instant application, please contact the undersigned.

Respectfully submitted:  
Liniak, Berenato & White

By:   
Matthew Stavish  
Reg. No. 36,286

Liniak, Berenato, Longacre & White  
Suite 240  
6550 Rock Spring Drive  
Bethesda, MD 20817  
301-896-0600  
fax 301-896-0607